



**USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: 07cv4775  
DATE FILED: 9/11/07**

## STATE OF NEW YORK

## OFFICE OF THE ATTORNEY GENERAL

ANDREW M. CUOMO  
Attorney General

*Andrew M. Cuomo  
Attorney General*

SEP 06 2007

(212) 416-8538

LESLIE LEACH  
Deputy Attorney General  
State Counsel Division

JUNE DUFFY  
Assistant Attorney General in Charge  
Litigation Bureau

September 5, 2007

**By Hand**

Honorable William H. Pauley  
United States District Judge  
Southern District of New York  
500 Pearl Street  
Room 2210  
New York, New York 10007

**MEMO ENDORSED**

Re: Federal Express Corp. v. Brockington et al.(07 CV 4775)(WHP)  
Your Honor:

This Office is counsel for defendants Kumicki Gibson, Margaret Gormley-King, Caroline Downey, sued individually and in their capacities as officials in New York State's Division of Human Rights and for the New York State Division of Human Rights (collectively, the "State defendants"). This action seeks a declaration that a civil rights matter commenced administratively in the New York State Division of Human Rights ("DHR") by defendant Isaac L. Brockington against plaintiff Federal Express is preempted by the Employee Retirement Income Security Act ("ERISA"), and an injunction against those proceedings.

On August 17, this Court entered an order directing that the parties "report whether they have resolved the ERISA preemption issue by September 7, 2007." I write on behalf of all parties to request that the Court extend the date for such report to September 13, 2007, which is four business days after the original scheduled date. Plaintiff joins in this application.

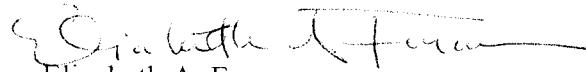
This extension is necessary because, as of today, September 5, 2007, this Office has not yet received a proposed stipulation resolving the ERISA preemption issue from plaintiff. At the pre-motion conference before the Court on August 17, two and a half weeks ago, the Court directed the parties to attempt to resolve the issues to be covered in the administrative proceedings before DHR by stipulation. Counsel for plaintiff stated that he would prepare such a draft stipulation and forward it to this Office for review and comment. Today counsel for plaintiff informed me that he presently has a stipulation in incomplete draft form. However, at this point, it will take more than two days to review and comment on plaintiff's proposed draft (which we have not yet seen) and receive the necessary approvals from our client, and from our Office. As such, even if I were to receive a draft today (which appears unlikely), no agreement could realistically be completed by September 7. The

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parties therefore jointly request a four business day extension of the original date for reporting to the Court to September 13, 2007.

Thank you for your assistance with this matter.

Respectfully submitted,

  
Elizabeth A. Forman  
Assistant Attorney General

cc: Ian Harris, Esq. (by fax)  
Colby S. Morgan, Esq. (by fax)  
Mr. Isaac L. Brockington (by mail)



**SO ORDERED:**

  
WILLIAM J. PAULEY III U.S.D.J.

9/10/07